

# **NURSERY STANDARDS**

## **SPECIFICATIONS FOR ACCEPTANCE OF NURSERY TREES AT THE TIME OF DELIVERY**

### **PURPOSE**

To obtain vigorous, healthy trees that can be easily trained into attractive trees with structurally strong roots and crowns.

### **SPECIFICATIONS**

(The buyer should choose and/or modify the appropriate sections depending on the species, the landscape site, and the intended function of the tree.)

- I. All trees shall be true to type or name as ordered or shown on the plans and shall be individually tagged or tagged in groups by species and cultivar (variety).
- II. All trees shall be healthy, have a form typical for the species or cultivar, be well-rooted, and properly trained. These characteristics are described in Sections III, IV, and V, below.
- III. All trees shall comply with federal and state laws requiring inspection for plant diseases and pest infestations. Inspection certificates required by law shall accompany each shipment of plants. Clearance from the county agricultural commissioner, as required by law, shall be obtained before planting trees delivered from outside the county in which they are to be planted.
- IV. The root-ball of all trees shall be moist throughout, and the crown shall show no signs of moisture stress.
- V. The following criteria apply primarily to broad-leaved decurrent trees:

#### **Tree Crown**

- A. Each tree should have a single, fairly straight trunk that has not been headed or that could be pruned to a central leader.
  1. Trees should have potential lateral scaffold branches (height of lowest scaffold depends on landscape use):
    - a. For small-growing trees (crape myrtle, flowering fruit trees), branches should be at least 2 inches apart vertically; trees could be trained in the landscape to 3-to-7 branches, 4 inches or more apart vertically.

For large-growing trees (ash, oak), branches should be at least 6 inches apart vertically; trees could be trained

- in the Landscape to 5-to-9 branches, 18 inches or more apart vertically.
- b. Branches should be radially distributed around the trunk.
- c. Branches should not be more than two-thirds ( $\frac{2}{3}$ ) the diameter of the trunk, measured 1 inch above the branch.
- d. Branch attachments should be free of included bark (bark embedded between the trunk and a lateral).
- 2. No lateral branches below the lowest potential scaffold should be larger than one-fourth ( $\frac{1}{4}$ ) the trunk diameter at point of attachment.
- 3. Each tree must be able to comply with Numbers 1 and 2 above without having removed, or having to remove, now or with the previous growing season (at least six months) more than twenty-five (25) percent of the branches of size similar to, or larger than, those of the potential scaffold branches.
- B. The minimum acceptable length of the most recent season's shoots should be specified. For example, shoots of such slow-growing trees as red maple, red oak, or ginkgo might be 8 inches, and for fast-growing trees, the minimum acceptable length might be 12 inches and preferably 24-36 inches.
- C. The following would be desirable:
  - 1. The tree should stand upright without support, unless the tree is bare root.
  - 2. The tree should have small (less than  $\frac{1}{4}$  diameter of trunk) temporary branches along the trunk below the scaffold branches.

### **Roots**

The following applies to container, boxed, or balled and burlapped trees regardless of species or mature size:

- A. The tree should be free of roots greater than one fifth ( $\frac{1}{5}$ ) the trunk diameter visibly circling the trunk and free of "knees" (roots) protruding above the soil.
- B. If in a tapered container, slip the root-ball out; the root-ball periphery should be free of circling roots larger than  $\frac{1}{4}$  inch in diameter or a

## Nursery Standards (continued)

mat of 1/4 inch or larger roots (acceptable diameters of circling peripheral roots depend on species and size of container).

- C. Untie the tree trunk from the stake; the trunk should not touch the top rim of the container.
  - D. Tip the root-ball or container on its side and with a small jet of water expose the roots within 2 inches of the trunk to a depth of 2-1/2 inches below the topmost root attached to the trunk. The trunk should be free of circling roots and kinks in the main root(s). Replace soil washed from around the trunk with a similar soil mix (less than ten [10] percent of the total root-ball volume should need to be added).
  - E. If the trees pass the above inspections, the roots will be further inspected by removal of the soil from the roots of not less than two (2) trees nor more than two (2) percent of the total number of trees of each species or variety from each source. The trunk and main roots shall be free of serious circling and kinked roots. Circling roots at the periphery of the root-ball shall not be reason for rejecting a tree unless they are large for the species and shoot growth is not acceptable for the species.
- VI. In case the sample trees inspected are found to be defective, the buyer reserves the right to reject the entire lot or lots of trees represented by the defective samples. Any plants rendered unsuitable for planting because of this inspection will be considered as samples and will not be paid for.
  - VII. The buyer shall be notified when plants are to be shipped at least ten (10) days prior to the actual shipment date, or the buyer may request to select the plants at the nursery before delivery.

These specifications have in part been adapted from the Standard Specifications, January 1981, of the California Department of Transportation, Sacramento.

## **Caltrans Supplemental Information**

The Caltrans website provides additional information for review by applicants for Environmental Enhancement and Mitigation program grants:

Map of Caltrans districts

List of Caltrans district EEM Program contact persons

Sample EEM Program Agreement to be executed between applicant and Caltrans after CTC program approval (do not submit this Agreement with your grant application)

URL: <http://www.dot.ca.gov/hq/LocalPrograms/EEM/homepage.htm>

## AGREEMENT DECLARING RESTRICTIVE COVENANTS

**State Project Number:** EEM-\_\_\_\_  
**Agreement Number:** \_\_\_\_\_

This Agreement Declaring Restrictive Covenants, hereinafter referred to as “ADRC”, is entered into effective this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, by and between \_\_\_\_\_, hereinafter referred to as “Applicant,” and the California Department of Transportation, hereinafter referred to as the “DEPARTMENT.”

- A. WHEREAS, the Applicant acquires the real property described in Exhibit ADRC-A, attached hereto and incorporated herein by this reference, hereinafter referred to as “REAL PROPERTY”, in fee simple; and
- B. WHEREAS, this REAL PROPERTY possesses wildlife and habitat values, hereinafter referred to collectively as CONSERVATION VALUES, of great importance to the DEPARTMENT, Applicant and the People of the State of California; and
- C. WHEREAS, Applicant is authorized to hold property in fee simple for these purposes pursuant to Applicant Resolution and other California law; and
- D. WHEREAS, the REAL PROPERTY is intended to provide mitigation of certain direct and/or indirect impacts of the transportation project described in Exhibit ADRC-A1 “Original EEM Application,” attached and hereto incorporated herein by this reference; and
- E. WHEREAS, the Applicant is intended to use the REAL PROPERTY only as detailed in Exhibit ADRC-A1, and for no purposes that are inconsistent with ADRC-A1, attached hereto and incorporated herein by this reference, hereinafter referred to as “ENHANCEMENT AND MITIGATION REQUIREMENTS”; and
- F. WHEREAS, the DEPARTMENT will provide funds allocated by the California Transportation Commission to Applicant to purchase REAL PROPERTY to satisfy said ENHANCEMENT AND MITIGATION REQUIREMENTS; and
- G. WHEREAS, both the DEPARTMENT and Applicant desire and intend to permanently restrict the REAL PROPERTY uses to preserve, protect, enhance, monitor and restore in perpetuity the CONSERVATION VALUES of the REAL PROPERTY so that the State of California shall be benefited and each successive Applicant of all or part of said REAL PROPERTY shall be benefited by the preservation of the species and habitat preserved and protected on the REAL PROPERTY in accordance with the MITIGATION REQUIREMENTS, hereinafter referred to as the “CONSERVATION PURPOSES”.

NOW THEREFORE, in consideration of the mutual promises of the parties hereto, each to the other as covenantors and covenantees, and expressly for the

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## AGREEMENT DECLARING RESTRICTIVE COVENANTS

substantial benefits to be derived there from, and to bind their successors in interest, the said parties agree as follows:

### Management and Maintenance of Property

1. Only the detailed uses described in Exhibit ADRC-A1, attached hereto and incorporated herein by this reference, shall be made of the REAL PROPERTY. Any uses inconsistent with the uses explicitly stated in Exhibit ADRC-A1 are not allowed.

2. Applicant will own, use, manage and maintain, now and in the future, the REAL PROPERTY pursuant to this ADRC and consistent with the CONSERVATION PURPOSES, the MITIGATION REQUIREMENTS and this ADRC. If Applicant or Applicant successors or assigns fail to use, manage and maintain the REAL PROPERTY consistent with the terms of the CONSERVATION PURPOSES, the MITIGATION REQUIREMENTS and this ADRC, Applicant or Applicant successors or assigns will be required to cure said noticed violation within forty-five (45) calendar days of becoming aware of that violation. If Applicant or Applicant successors or assigns fail to cure the violation within forty-five (45) calendar days of becoming aware or where the violation cannot reasonably be cured within forty-five (45) calendar days, fails to begin curing such violation within that forty-five (45) calendar day period, or fails to continue diligently to cure such violation until finally cured, such failure will be deemed as a default of this ADRC. If default occurs, the CONSERVATION PURPOSES will have deemed violated and Applicant or Applicant successors or assigns must comply with the requirements set forth in section 4 below.

3. All of the REAL PROPERTY acquired to satisfy the MITIGATION REQUIREMENTS shall be subject to this ADRC. If REAL PROPERTY is sold, transferred, traded, or taken by an exercise of the power of eminent domain, in whole or in part, Applicant or Applicant successors or assigns, shall notify the DEPARTMENT of the proposed sale, transfer, trade or taking by sending written notice to: State of California, Department of Transportation, Legal Division, 1120 N Street, (MS57) Sacramento, California 95814.

4. In the event of a default, sale, transfer, trade or taking, Applicant or Applicant successors or assigns shall reimburse the DEPARTMENT an amount either equal to DEPARTMENT's funding participation of \$\_\_\_\_\_ for the purchase and/or improvements of the REAL PROPERTY or the DEPARTMENT's pro rata participation in the purchase of said REAL PROPERTY (determined to be \_\_\_\_\_%) subsequent fair market value, including improvements, at the time of default sale, trade, transfer or taking, whichever is higher. Applicant or Applicant successors or assigns shall not be obligated to repay the DEPARTMENT if the DEPARTMENT agrees in writing that Applicant or Applicant successors or assigns may utilize those proceeds for the preservation of real property for equivalent environmental value conforming to the CONSERVATION PURPOSES when protected by similar conditions, to the extent applicable.

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## **AGREEMENT DECLARING RESTRICTIVE COVENANTS**

5. With the DEPARTMENT's prior written approval, Applicant or Applicant successors or assigns may modify or transfer the Application, use, management and maintenance responsibilities established by the REAL PROPERTY restrictive covenants.

### **Term**

6. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them until revoked or amended pursuant to the Amendment and Revocation provisions of this ADRC.

### **Assignment**

7. Without the prior written consent of the DEPARTMENT, this ADRC is not assignable in whole or in part by Applicant or Applicant successors or assigns.

### **Amendment and Revocation**

8. Conditional upon the DEPARTMENT receiving full fair market value return in the event of any reduction in the restrictions placed on the use of this REAL PROPERTY unless DEPARTMENT agrees in writing that Applicant or Applicant successors or assigns may utilize the value received for the preservation of real property for equivalent environmental value conforming to the CONVERSATION PURPOSES when protected by similar conditions, to the extent applicable, this ADRC and any amendments to it may be amended in any respect by the execution by the DEPARTMENT and Applicant or Applicant successors and assigns of any written instrument amending or revoking this ADRC. The amending or revoking instrument shall make appropriate reference to this ADRC, and its amendments and shall be signed by both parties thereto, acknowledged and recorded in the office of the County Recorder of the counties in which the property is located.

### **Enforcement**

9. Enforcement shall be by proceedings at law or in equity against any person or persons or party or parties violating or attempting to violate any covenant by either restraining violation or by the recovery of damages.

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## **AGREEMENT DECLARING RESTRICTIVE COVENANTS**

### **Indemnification**

10. Neither the DEPARTMENT nor any officer or employee thereof is responsible for any damage or liability occurring by reason of anything done or omitted to be done by Applicant or Applicant successors or assigns under or in connection with any work, authority or jurisdiction delegated to Applicant or its successors or assigns under this ADRC. It is understood and agreed that, pursuant to Government Code Section 895.4, Applicant or Applicant successors or assigns shall fully defend, indemnify and save harmless the DEPARTMENT and all of its officers and employees from all claims, suits or actions of every name, kind and description brought for or on account of injury (as defined in Government Code Section 810.8) occurring by reason of anything done or omitted to be done by Applicant or Applicant successors or assigns under or in connection with any work, authority or jurisdiction delegated to Applicant or Applicant successors or assigns under this ADRC. The DEPARTMENT reserves the right to represent itself in any litigation in which the DEPARTMENT interests are at stake.

### **Purpose of ADRC**

11. This ADRC is solely for the purpose of protecting and maintaining the present and future restricted use of all of the REAL PROPERTY solely for the MITIGATION REQUIREMENTS and these enhancements tied to the preservation of the CONSERVATION PURPOSES.

### **Severability**

12. Invalidity of any one of these covenants by judgment or court order shall in no way affect any of the other provisions that shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereby execute this ADRC by their duly authorized officers as of the date set forth above and agree to be bound hereby:

STATE OF CALIFORNIA  
**DEPARTMENT OF TRANSPORTATION**

**Signature certifies Exhibits A and A1 are attached and will be recorded. Do not sign until documents are attached for recording purposes.**

By: \_\_\_\_\_  
(Signature)  
(Name), District Right of Way Division Chief

APPLICANT'S NAME

**Signature certifies Exhibits A and A1 are attached and will be recorded.**

By: \_\_\_\_\_  
(Applicant's Representative Signature)

(Name and Title)

(Agency)

(City, State, Zip)

(Phone Number

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**AGREEMENT DECLARING RESTRICTIVE COVENANTS**

Notary Acknowledgments

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California  
County of Sacramento

On \_\_\_\_\_ before me,  
\_\_\_\_\_, Notary Public,  
personally appeared  
\_\_\_\_\_.

- ☐ Personally known to me – OR – ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

**Description of Document**

Agreements Declaring Restrictive Covenant, including legal description of property and original EEM application

Document Date: \_\_\_\_\_  
No. of Pages \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_  
\_\_\_\_\_

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**AGREEMENT DECLARING RESTRICTIVE COVENANTS**

Capacity(ies) Claimed by Signer(s)

<div>Signer's Name: <hr/></div> <div><input type="checkbox"/> Individual <input type="checkbox"/> Corporate Officer <input type="checkbox"/> Partner <input type="checkbox"/> Attorney in Fact <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator <input type="checkbox"/> Other:</div> <div>Signer is Representing  <hr/></div>	<div>Signer's Name: <hr/></div> <div><input type="checkbox"/> Individual <input type="checkbox"/> Corporate Officer <input type="checkbox"/> Partner <input type="checkbox"/> Attorney in Fact <input type="checkbox"/> Trustee <input type="checkbox"/> Guardian or Conservator <input type="checkbox"/> Other:</div> <div>Signer is Representing  <hr/></div>
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**AGREEMENT DECLARING RESTRICTIVE COVENANTS**

**EXHIBIT ADRC-A**

**LEGAL DESCRIPTION OF REAL PROPERTY**

*(Insert the legal description of the property to be purchased by Applicant to satisfy the MITIGATION REQUIREMENTS.)*

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**AGREEMENT DECLARING RESTRICTIVE COVENANTS**

**ADRC-A1 ORIGINAL EEM APPLICATION**

(Attach a copy of the original application sent to the Resource Agency for this project.)